

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DIGITAL FILING SYSTEMS, INC.,

Plaintiff,

v.

Case No.: 03-70437

HONORABLE VICTORIA A. ROBERTS

ADITYA INTERNATIONAL and  
AKHILESH AGARWAL,  
jointly and severally,

Defendants.

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**OPINION AND ORDER**

This matter is before the Court on Plaintiff's Motion for Default Judgment for Lack of Prosecution [Doc. 25] and Defendants' Motions (1) for Grant of Time to Comply with Court Order Dated January 26, 2005 [Doc. 35]; (2) to Clarify Intent to Proceed [Doc. 30]; and (3) for Adjournment [No Doc. Number.]. For the reasons stated, the Court GRANTS Plaintiff's Motion for Default Judgment. Each of Defendants' Motions is DENIED.

Aditya International and Akhilesh Agarwal ("Defendants") have repeatedly delayed this matter, presumably until a similar case is resolved in the High Court of Delhi in India. To that end, Defendants have actively avoided prosecution. In their motion for default judgment, Digital Filing Systems, Inc., ("Plaintiff") outlines numerous examples of Defendants' attempts to obstruct prosecution. Two of the most egregious examples are Defendants: (1) refusal to accept interrogatories, requests for admissions, and requests for documents and (2) limiting their incoming email to reject attachments



and avoid service of the documents via email.<sup>1</sup>

A third example came on the eve of a conference call noticed to Defendant via email on April 5, 2005. The call was noticed for April 18, 2005, at 10:00 AM EST to discuss pending motions, including Plaintiff's Motion for Default Judgment. On Friday, April 15, at 2:52 PM EST, Defendants emailed the Court seeking an adjournment until the first week of July 2005, citing the need to perform "various religious duties" prior to Agarwal's May 27, 2005 marriage. Given Defendants' repeated attempts to delay proceedings and the timing of the motion to adjourn, the Court replied to Defendants' email, stating that the conference call would occur as scheduled,<sup>2</sup> effectively denying Defendants' Motion to adjourn until July 2005. Defendants failed to appear for the call.

For these reasons, and those outlined in Plaintiff's Motion for Default Judgment, the Court finds that Defendants have failed to prosecute this matter and have actively and unreasonably delayed proceedings. Therefore, the Court GRANTS Plaintiff's Motion for Default Judgment. Defendants' two additional pending motions are DENIED as moot.

**IT IS SO ORDERED.**

/s/ Victoria A. Roberts  
**VICTORIA A. ROBERTS**  
**United States District Judge**

**DATED: 4/22/05**

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<sup>1</sup> Defendants subsequently replied to the request for admissions. In response to many of the requests Defendants stated simply, without explanation, "This is wrong and denied." Pursuant to Fed.R.Civ.P. 37(a)(3), this response is incomplete and deemed a failure to disclose, answer or respond to the discovery request.

<sup>2</sup> The conference call was conducted at its scheduled time and was on the record. Interestingly, the Court was informed by Plaintiff at the conference call that the matter pending in the High Court of Delhi was recently adjourned until May 18, 2005.



The undersigned certifies that a copy of this document was served on the attorneys of record & pro se defendant by electronic means or U.S. Mail on April 22, 2005.

s/Carol A. Pinegar \_\_\_\_\_  
Deputy Clerk